IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 21369 of 2004

Between:

Sri Kola Rama Krishna Rao, S/o.Sri Ganapathi Rao,
D.No.1-15-16/2, Kusuma Gajapathinagar,
Vizianagaram.

..... PETITIONER

AND

1 The Commissioner, Vizianagaram Municipality, Vizianagaram.
2 The Town Planning officer, Vizianagaram Municipality, Vizianagaram.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the orders of the 1st Respondent Authority in ROC.No.2896/04/G2, dated 05-10-2004, as arbitrary, illegal, null and voild and is against the principles of natural justice and norms of the public policy and to set aside the same and pass.

Counsel for the Petitioner: MR.VENKATESWARA RAO GUDAPATI

Counsel for the Respondents.: MR.SRINIVAS DAMMALAPATI

The Court made the following :

This writ petition is filed Questioning the proceedings of the 1st respondent dated 5-10-2004 revoking the building permission granted to the petitioner.

According to the petitioner he started construction of building in his site in an extent of 220 sq. yards in Sy.No.131/6, which comes under the purview of the respondent – Municipality, after obtaining necessary building permission from 1st respondent, vide Proceedings No. BA No.645/04/G2 dated 11-6-2004. While so, the 1st respondent served a show cause notice dated 8-9-2004 on the petitioner calling for an explanation on the ground that the petitioner has violated the building permission. The petitioner claims that he has submitted his explanation on 13-9-2004 by certificate of posting, but the respondents without considering the same, issued the impugned proceedings.

Heard the learned counsel for the petitioner and Sri D.Srinivas, learned standing counsel for the respondent – Municipality.

The learned counsel for the petitioner submits that the impugned proceedings is illegal and arbitrary inasmuch as the same is passed without considering the explanation to the show cause notice submitted by the petitioner. During the course of hearing, he produced the 'certificate of posting' dated 13-9-2004 issued by the postal department, to show that the petitioner has sent his explanation to the show cause notice issued by the respondents.

In the circumstances, I deem it appropriate to dispose of the writ petition with the following directions:

The 1st respondent is directed to pass appropriate orders afresh, in accordance with law, after considering the explanation of the petitioner dated 13-9-2004. Till such time, status quo obtaining as on today shall be maintained. The petitioner shall not make any further construction.

The writ petition is accordingly disposed of at stage of admission. No costs.

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23-11-2004

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To:

1 The Commissioner, Vizianagaram Municipality, Vizianagaram.
2 The Town Planning officer, Vizianagaram Municipality, Vizianagaram.

3. Two C.D. copies